



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

April 3, 2017

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

James W. Goodnight, M.D.
535 High Mountain Road, Suite 110
North Haledon, New Jersey 07508

Re: License No. 247600

Dear Dr. Goodnight:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 17-100. This order and any penalty provided therein goes into effect April 10, 2017.

Please direct any questions to: Board for Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204, telephone # 518-402-0846.

Sincerely,

A large black rectangular box used to redact a signature.

Robert A. Catalano, M.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: William Volonte, Esq.
Kim & Bae, P.C.
2160 North Central Road, Suite 303
Fort Lee, New Jersey 07024-7547

BPMC No. 17-100

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
JAMES W. GOODNIGHT, M.D.

MODIFICATION
ORDER

Upon the proposed Application for a Modification Order of JAMES W. GOODNIGHT M.D. (Respondent), which is made a part of this Modification Order, it is agreed to and ORDERED, that the attached Application, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Modification Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Modification Order, either by first class to Respondent at the address in the attached Application or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 3/30/2017

ARTHUR S. HENGERER, M.D.
Chair
State Board for Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

2

IN THE MATTER
OF
JAMES W. GOODNIGHT, M.D.

MODIFICATION
AGREEMENT
AND
ORDER

JAMES W. GOODNIGHT, M.D., represents that all of the following statements are true:

That on or about February 11, 2008, I was licensed to practice as a physician in the State of New York, and issued License No. 247600 by the New York State Education Department.

My current address is 535 High Mtn. Rd; Suite 110, N. Haledon, NJ, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I am currently subject to BPMC Order # BPMC 15-010 (henceforth "Original Order"), which was issued upon a Consent Agreement application signed by me on January 10, 2015 (henceforth Original Application"), adopted by the Original Order. I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows: by substituting this Modification Agreement and Order for the Original Order. Based upon my compliance with the terms of the New Jersey Consent Order dated December 13, 2013, the previously imposed suspension of my medical license in New York, set forth in the Original Order, shall terminate upon the effective date of this Modification Order.

07508

As in the Original Order, I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with a Specification of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", which is attached to and part of this Modification Agreement, and I do not contest the Specification of professional misconduct against me. I agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for two years, subject to the terms set forth in attached Exhibit "B."

I further agree that the Modification Order shall impose the following conditions:

That Respondent shall provide a written authorization for the New Jersey Board to provide the Director of OPMC with any/all information or documentation as requested by OPMC with regard to Respondent's compliance with, and satisfaction of, his obligations pursuant to the December 13, 2013 Order of the New Jersey Board.

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ. Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all

registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 8502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Modification Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall : report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a

5

licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29).

Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring

6

Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Modification Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Modification Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Modification Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Modification Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Modification Agreement.

I understand that if the Board does not adopt this Modification Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Modification Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to N.Y. Pub. Health Law.

I agree that, if the Board adopts this Modification Agreement, the Chair of the Board shall issue a Modification Order in accordance with its terms. I agree that this Modification Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Modification Order by first class mail to me at the address in this Modification Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Modification Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Modification Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Modification Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Modification Agreement,

8
allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Modification Order for which I apply, whether administratively or judicially, I agree to be bound by the Modification Order, and I ask that the Board adopt this Modification Agreement

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 3/22/17


JAMES W. GOODNIGHT, M.D.
RESPONDENT

9

The undersigned agree to Respondent's attached Modification Agreement and to its proposed penalty, terms and conditions.

DATE: 3/22/2017

[REDACTED]
WILLIAM VOLONTE, ESQ.
Attorney for Respondent

DATE: March 22, 2017

[REDACTED]
MARCIA E. KAPLAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 3/30/17

[REDACTED]
KEITH W. SERVIS
Director
Office of Professional Medical Conduct

10

EXHIBIT "A"



STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

JAMES W. GOODNIGHT, M.D.
CO-13-12-7591-A

STATEMENT

OF

CHARGES

JAMES W. GOODNIGHT, M.D., Respondent, was authorized to practice medicine in New York State on February 11, 2008, by the issuance of license number 247800 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about December 13, 2013, the State of New Jersey, Department of Law & Public Safety, Division of Consumer Affairs, State Board of Medical Examiners, (hereinafter "New Jersey Board"), by a Consent Order (hereinafter "New Jersey Order"), Inter alia, Suspended the license of Respondent to practice medicine and surgery in the State of New Jersey for a period of three (3) years with the first six (6) months of the suspension to be served as a period of active suspension and the remainder to be stayed and served as a period of probation, assessed a civil penalty of \$30,000.00, and costs totaling \$56,675.00 based on Respondent engaging in unauthorized practice on the part of an unlicensed individual, failing to safeguard a prescription pad, prescribing to himself and family members without medical records, failing to obtain informed consent of patient before treatment, failing to maintain sufficient and complete medical records, and prescribing medications including steroids to patients without performing full examinations or providing adequate individualized care.

B. The conduct resulting in the New Jersey Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York state law:

1. New York Education Law §8530(2) (practicing the profession fraudulently or beyond its authorized scope).
2. New York Education Law §8530(3) (practicing the profession with negligence on more than one occasion).

3. New York Education Law 58530(11) (permitting, aiding or abetting an unlicensed person to perform activities requiring a license).

4. New York Education Law 58530(32) (failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATIONS

FIRST SPECIFICATION

Respondent violated New York Education Law 58530(9)(d) by having his license to practice medicine suspended or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the suspension or other disciplinary action involving the license would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and B and B1, A and B and B2, A and B and B3, and/or A and B and B4.

DATED: *Oct. 27*, 2014
Albany, New York

[REDACTED]
MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

EXHIBIT "B"

Terms of Probation

- 1) Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
- 2) Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
- 3) Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- 4) The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- 5) The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
- 6) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
- 7) Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

8) Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.

- a) Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
- b) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
- c) Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
- d) Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

9) Respondent shall enroll in and successfully complete a continuing education program, which shall be subject to the Director of OPMC's prior written approval and successfully completed within the first 90 days of the probation period.

10) Respondent shall comply with this Modification Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.